

REMARKS

This Amendment is being filed in response to the Final Office Action mailed on November 12, 2008 which has been reviewed and carefully considered. Reconsideration and allowance of the present application in view of the remarks to follow are respectfully requested.

Claims 1-16 remain in this application, where claim 1 is independent.

In the Final Office Action, claims 1-3, 7-8, 10-12 and 16 are rejected under 35 U.S.C. §102(b) as allegedly anticipated by EP 1,067,535 (Muramatsu). Claims 4-6, 9 and 13-14 are rejected under 35 U.S.C. §103(a) as allegedly unpatentable over Muramatsu. It is respectfully submitted that claims 1-16 are patentable over Muramatsu for at least the following reasons.

Muramatsu is directed to an information recording medium having a plurality of layers for the recording of information. As recited in paragraph [0034], Muramatsu discloses that the thickness dG1 for a groove G and the thickness dL1 for a land L are set so as

to satisfy $dG1 > dL1$.

It is respectfully submitted that Muramatsu does not disclose or suggest the present invention as recited in independent claim 1 which, amongst other patentable elements, recites (illustrative emphasis provided):

wherein the groove depth of the recording layer of the first recording stack (LO) is in a range from $0.241 * \lambda / n_s$ to $0.362 * \lambda / n_s$, where n_s is a refractive index of a material in a land between grooves on the groove structure.

A groove depth expressed in terms of wavelength λ of radiation beam and refractive index of a material in a land between grooves on the groove structure is nowhere disclosed or suggested in Muramatsu. Rather Muramatsu merely discloses that $dG1 > dL1$.

Further, it is believed that there is no need to further limit the claims by reciting a particular wavelength, since claim 1 specifically recites a particular relationship among wavelength, refractive index and groove depth.

The recited relationship among wavelength, refractive index and groove depth provides substantial benefits, such as providing simultaneously improved high transmission and reflection to allow

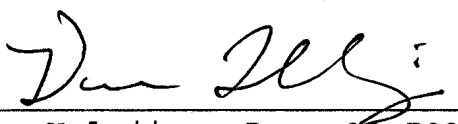
good read-out signals from both the recording layers L0, LN, with compatibility with the already existing dual-layer DVD-ROM standard. Such a simultaneously improvement of both transmission and reflection is an unexpected result, as disclosed from page 2, line 32 to page 3, line 5 of the present application.

Accordingly, it is respectfully requested that independent claim 1 be allowed. In addition, it is respectfully submitted that claims 2-16 should also be allowed at least based on their dependence from independent claim 1 as well as their individually patentable elements.

In addition, Applicant denies any statement, position or averment of the Examiner that is not specifically addressed by the foregoing argument and response. Any rejections and/or points of argument not addressed would appear to be moot in view of the presented remarks. However, the Applicant reserves the right to submit further arguments in support of the above stated position, should that become necessary. No arguments are waived and none of the Examiner's statements are conceded. And in particular, no Official Notices are conceded.

In view of the above, it is respectfully submitted that the present application is in condition for allowance, and a Notice of Allowance is earnestly solicited.

Respectfully submitted,

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